

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA

vs.

Criminal Action 2:12-CR-0094
Judge Graham

DENNIS ANTONIO JUAREZ REYES,
aka Victor Colon Rosario

ORDER and REPORT AND RECOMMENDATION

On June 1, 2012 defendant entered a guilty plea, pursuant to Rule 20 of the Federal Rules of Criminal Procedure, to Count 1 of an *Indictment* filed on December 29, 2011 in the District of Puerto Rico charging him with conspiracy to commit identification fraud. The undersigned recommended that defendant's guilty plea be accepted. *Report and Recommendation*, Doc. No. 18. The United States now asks that defendant's guilty plea be vacated because the December 29, 2011 *Indictment* had been rendered moot by a *Superseding Indictment* which had been filed on March 22, 2012 but which had been inadvertently excluded from the Rule 20 documents received from the District of Puerto Rico.

Defendant does not oppose the motion.

Under these circumstances, the *Report and Recommendation*, Doc. No. 18, is **WITHDRAWN**. It is **RECOMMENDED** that defendant be permitted to withdraw his guilty plea entered to Count 1 of the *Indictment* and that the matter be scheduled for a guilty plea proceeding on Count 1 of the *Superseding Indictment*.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed

within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

June 14, 2012
Date

s/ Norah McCann King
Norah McCann King
United States Magistrate Judge